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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/693,555	10/24/2003	Jerome S. Veith	659-1148	3611
757	7590	03/18/2008	EXAMINER	
BRINKS HOFER GILSON & LIONE P.O. BOX 10395 CHICAGO, IL 60610			HAND, MELANIE JO	
ART UNIT	PAPER NUMBER			
	3761			
MAIL DATE	DELIVERY MODE			
03/18/2008	PAPER			

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/693,555	Applicant(s) VEITH, JEROME S.
	Examiner MELANIE J. HAND	Art Unit 3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 23 November 2007.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-23 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-23 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
 3) Information Disclosure Statement(s) (PTO/0256/06)
 Paper No(s)/Mail Date _____

4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____

5) Notice of Informal Patent Application

6) Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed November 23, 2007 have been fully considered but they are not persuasive.

With respect to arguments regarding the rejection of claim 1: Applicant argues that the prior art of Everett does not remedy the deficiency of Van Gompel regarding the limitations "said second length is less than or equal to 50% of said first length" and "at least 70% of said second length is positioned between said centerline and said terminal front waist edge". Applicant argues that Everett ignores the recitation that "there is no absorbent material disposed longitudinally outsider of said retention region defined between said first and second boundaries. This is not persuasive because one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). This limitation was already satisfied by the prior art of Van Gompel and does not need to be met by the prior art of Everett. The prior art of Everett was introduced as a secondary reference because Everett teaches a disposable article that is substantially identical in structure to that of Van Gompel and seeks to solve a similar problem in the art. Everett teaches specific dimensions and relative positioning for first and second boundaries as claimed. The fact that the articles seek to solve a similar problem in the art and are substantially identical structurally, there is suggestion to modify the article of Van Gompel to meet the limitations "said second length is less than or equal to 50% of said first length" and "at least 70% of said second length is positioned between said centerline and said terminal front waist edge". As to applicant's argument that the prior art of Everett ignores the limitation "wherein there is no

absorbent material disposed longitudinally outside of said retention region defined between said first and second boundaries", again, this is a limitation which has already been met by Van Gompel. Everett is introduced only to illustrate the relative position of a target area which would be desirable modification to the prior art article of Van Gompel because both articles are diapers and the target area of Everett is positioned so as to bear all of the load of a urine insult to distribute the exudate and prevent leakage.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. Claims 1-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Van Gompel et al (U.S. Patent No. 6,217,563) in view of Everett et al (U.S. Patent No. 6,437,214).

With respect to **claim 1**: Van Gompel teaches a disposable absorbent garment 10 comprising: a body chassis defined by panels 52,53 having a terminal front waist edge 60, a terminal back

waist edge 61 longitudinally spaced from said terminal front waist edge, a first length defined between said terminal front waist edge 60 and said terminal back waist edge 61, and a laterally extending centerline defined half way between said terminal front and back waist edges, wherein said body chassis (collectively, panels 52,53) is formed from a laminate structure having a plurality of layers, wherein all of said layers are the same length such that a thickness of said body chassis is the same along said length of said layers. This is evidenced by Van Gompel's teaching of one material for the panels that is a laminate, therefore it is considered herein to be one material of uniform thickness throughout. ('563, Col. 3, lines 62-67, Col. 5, lines 3,4, Col. 17, lines 42-48). Absorbent insert 32 is fixedly secured to said body chassis (i.e. panels 52,53), said absorbent insert 32 comprising a retention region comprising an absorbent material 48 ('563, Col. 19, lines 28-37), said retention region having first and second longitudinally spaced boundaries indicated by dashed lines in Fig. 1 that are indicated as the outer edges of wrap sheet 74, and a second length defined between said first and second boundaries. As can be seen in Fig. 1, there is no absorbent material 48 disposed longitudinally outside of said retention region defined between said first and second boundaries.

Van Gompel does not explicitly teach that said second length is less than or equal to 50% of said first length. Everett teaches an absorbent article having a first length as defined in the instant application disclosure and a second length, defined according to the application disclosure as the length between the first and second longitudinally spaced boundaries of a retention portion in the form of target area 52. Everett teaches that the target area begins at an imaginary line that is 24% of the article length from the front waist edge and terminates at an imaginary line that is 59% of the article length away from the front waist edge. Thus the second length is $59-24=35\%$ of the first length which is the article length, which falls within the claimed range. Everett teaches that this is called a target area because it is positioned at a point where it

is believed that a majority of an insult of exudates will occur, thus it would be obvious to one of ordinary skill in the art to modify the article of Van Gompel such that the second length is less than or equal to 50% of the first length as taught by Everett to ensure that the absorbent material is placed where a majority of the flow of exudates from an insult will occur. ('214, Col. 8, lines 35-43)

Van Gompel does not explicitly teach that at least 70% of said second length is positioned between said centerline and said terminal front waist edge. The second length taught by Everett begins at a boundary that is 24% of the length of the article away from the front waist edge, which is considered to be a point defining 0% of the length. The second boundary that defines the second length is 59% of the length away from the front waist edge. Thus, considering the lateral centerline to be 50% of the length of the article away from the front waist edge, a portion of the target area 52 that is located between the front waist edge and the centerline has a length that is equal to 50%-24%, or 26% of the length of the article. The total second length is a length that is 35% of the article length. Therefore, the percentage of the second length that is positioned between the centerline and the front waist edge is 26% article length (=portion of second length forward of the centerline)/35% article length (=total second length), or 74% of the second length, which meets the relevant claim limitation. The motivation to combine the teachings of Van Gompel and Everett has been stated *supra*.

With respect to **Claim 2**: The absorbent assembly comprises single retention member 48 defining a retention region. As can be seen in Fig. 2 taught by Van Gompel, retention portion 48 has first and second ends corresponding to first and second boundaries. ('563, Col. 3, lines 55-60)

With respect to **Claims 3,4**: Van Gompel teaches that the retention portion is comprised of 37% superabsorbent material by weight. ('563, Col. 31, lines 9-11)

With respect to **claim 5**: With regard to the limitation of claim 5, Van Gompel teaches superabsorbent materials that are identical to some of those disclosed by applicant, e.g. alkali metal and ammonium salts of polyacrylic acid and thus inherently have a centrifuge retention capacity within the claimed range. (Specification, page 19, lines 7,8, '3563, Col. 11, lines 19-21). When the structure or composition recited in the reference is substantially identical to that of the claims of the instant invention, claimed properties or functions presumed to be inherent (MPEP 2112-2112.01). A *prima facie* case of obviousness has been established when the reference discloses all the limitations of a claim (in this case, a superabsorbent material) except for a property or function (in the present case, the centrifuge retention capacity of the superabsorbent) and the examiner can not determine whether or not the reference inherently possesses properties that render obvious the claimed invention but has a basis for shifting the burden of proof to applicant, as per *In re Fitzgerald*, 619 F.2d 67, 205 USPQ 594 (CCPA 1980).

With respect to **claim 6**: Van Gompel teaches a disposable absorbent garment 10 comprising: a body chassis (collectively panels 52,53) having a terminal front waist edge 60, a terminal back waist edge 61 longitudinally spaced from said terminal front waist edge 60, a first length defined between said terminal front waist edge 60 and said terminal back waist edge 61, and a laterally extending centerline defined half way between said terminal front and back waist edges, wherein said body chassis 52,53 is formed from a laminate structure having a plurality of layers, wherein all of said layers have the same length such that a thickness of said body chassis is the same along said length of said layers; and an absorbent insert 32 fixedly secured to said body chassis, said absorbent insert 32 comprising a retention region indicated by

dashed lines and continuous with the outer boundary of overwrap sheet 74 as shown in Fig. 1, comprising an absorbent material 48, wherein said absorbent material 48 comprises a superabsorbent material, said retention region having first and second longitudinally spaced boundaries indicated by said dashed lines continuous with the boundary of overwrap sheet 74 and a second length defined between said first and second boundaries, wherein there is no absorbent material 48 disposed longitudinally outside of said retention region defined between said first and second boundaries. ('563, Col. 3, lines 62-67, Col. 5, lines 3,4, Col. 17, lines 42-48, Col. 19, lines 28-37)

Van Gompel does not explicitly teach that said second length is less than or equal to 50% of said first length. Everett teaches an absorbent article having a first length as defined in the instant application disclosure and a second length, defined according to the application disclosure as the length between the first and second longitudinally spaced boundaries of a retention portion in the form of target area 52. Everett teaches that the target area begins at an imaginary line that is 24% of the article length from the front waist edge and terminates at an imaginary line that is 59% of the article length away from the front waist edge. Thus the second length is $59-24=35\%$ of the first length which is the article length, which falls within the claimed range. Everett teaches that this is called a target area because it is positioned at a point where it is believed that a majority of an insult of exudates will occur, thus it would be obvious to one of ordinary skill in the art to modify the article of Van Gompel such that the second length is less than or equal to 50% of the first length as taught by Everett to ensure that the absorbent material is placed where a majority of the flow of exudates from an insult will occur. ('214, Col. 8, lines 35-43)

Van Gompel does not explicitly teach that at least 70% of said second length is positioned between said centerline and said terminal front waist edge. The second length taught

by Everett begins at a boundary that is 24% of the length of the article away from the front waist edge, which is considered to be a point defining 0% of the length. The second boundary that defines the second length is 59% of the length away from the front waist edge. Thus, considereing the lateral centerline to be 50% of the length of the article away from the front waist edge, a portion of the target area 52 that is located between the front waist edge and the centerline has a length that is equal to 50%-24%, or 26% of the length of the article. The total second length is a length that is 35% of the article length. Therefore, the percentage of the second length that is positioned between the centerline and the front waist edge is 26% article length (=portion of second length forward of the centerline)/35% article length (=total second length), or 74% of the second length, which meets the relevant claim limitation. The motivation to combine the teachings of Van Gompel and Everett has been stated *supra* in this rejection of claim 6.

Everett teaches an absorbent density for layer 48 of absorbent material of 0.1 – 0.3 g/cc, which overlaps the claimed range and thus meets the claim limitation, as applicant reports the density of the claimed retention portion as being equivalent to the density of the claimed absorbent material 70 (¶0057). The motivation to combine the teachings of Van Gompel and Everett has been stated *supra* in this rejection of claim 6.

With respect to **Claim 7**: Van Gompel teaches a front body panel 52 comprising a terminal front waist edge 60 and a terminal front crotch edge 62 longitudinally spaced from said terminal waist edge 60, a rear body panel 53 comprising a terminal back waist edge 61 and a terminal crotch edge 63, longitudinally spaced from said terminal back waist edge, wherein the terminal crotch edge 63 of said rear body panel 53 is longitudinally spaced from, and forms a gap with, said terminal crotch edge 62 of said front body panel 52 . The absorbent insert 32 comprises first

and second longitudinally spaced end portions 82 and opposite laterally spaced side edges 80, and said absorbent insert 32 bridges said gap between said front and rear body panels with said first and second longitudinally spaced end portions overlying and connected to said front and rear body panels respectively, as is seen in Fig. 1 taught by Van Gompel. ('563, Col. 3, lines 49-67, Col. 13, line 39 – Col. 14, line 5)

With respect to **Claim 8**: Van Gompel teaches that the body panels 52,53 of the chassis are comprised of a nonwoven material. ('563, Col. 17, lines 18-22)

With respect to **Claim 9**: Van Gompel teaches that the body panels 52,53 (chassis) comprise an elastomeric material that is stretchable along the lateral width 54 of the article. ('563, Col. 17, lines 42-45)

With respect to **claim 10**: Van Gompel teaches a pair of fasteners 36 positioned at one end of said body chassis on opposite sides thereof (Fig. 1), wherein said at least said pair of fasteners releasably engages an opposite end of said body chassis on said opposite sides thereof with a pair of leg openings being defined at least in part by said body chassis. ('563, Col. 5, lines 32-38)

With respect to **claim 11**: Van Gompel teaches a disposable absorbent garment 10 comprising: a front body panel 58 comprising a terminal waist edge and a terminal crotch edge; a rear body panel 60 comprising a terminal waist edge and a terminal crotch edge, wherein said terminal crotch edge of said rear body panel is longitudinally spaced from and forms a gap with said terminal crotch edge of said front body panel, and wherein a first length is defined between said terminal waist edge of said front body panel and said terminal waist edge of said rear body panel, and wherein a laterally extending centerline is defined half way between said terminal

waist edges of said front and rear body panels; and an absorbent insert 32 comprising first and second longitudinally spaced end portions each having a terminal edge and opposite laterally spaced side edges, wherein said absorbent insert 32 bridges said gap between said front and rear body panels with said first and second end portions overlying and connected to said front and rear body panels respectively and with said terminal edges of said first and second end portions longitudinally spaced from said terminal waist edges of said front and rear body panels respectively and with said terminal edges of said first and second end portions longitudinally spaced from said terminal crotch edges of said front and rear body panels respectively, said absorbent insert 32 comprising a retention member formed from an absorbent material 48, said retention member having first and second longitudinally spaced ends and a second length defined between said first and second ends. ('563, Col. 3, lines 62-67, Col. 5, lines 3,4, Col. 17, lines 42-48, Col. 19, lines 28-37)

Van Gompel does not explicitly teach that at least 70% of said second length is positioned between said centerline and said terminal front waist edge. The second length taught by Everett begins at a boundary that is 24% of the length of the article away from the front waist edge, which is considered to be a point defining 0% of the length. The second boundary that defines the second length is 59% of the length away from the front waist edge. Thus, considering the lateral centerline to be 50% of the length of the article away from the front waist edge, a portion of the target area 52 that is located between the front waist edge and the centerline has a length that is equal to 50%-24%, or 26% of the length of the article. The total second length is a length that is 35% of the article length. Therefore, the percentage of the second length that is positioned between the centerline and the front waist edge is 26% article length (=portion of second length forward of the centerline)/35% article length (=total second length), or 74% of the second length, which meets the relevant claim limitation. Everett teaches

that this is called a target area because it is positioned at appoint where it is believed that a majority of an insult of exudates will occur, thus it would be obvious to one of ordinary skill in the art to modify the article of Van Gompel such that the second length is less than or equal to 50% of the first length as taught by Everett to ensure that the absorbent material is placed where a majority of the flow of exudates from an insult will occur. ('214, Col. 8, lines 35-43)

With respect to **claim 12**: Van Gompel does not explicitly teach that said second length is less than or equal to 50% of said first length. Everett teaches an absorbent article having a first length as defined in the instant application disclosure and a second length, defined according to the application disclosure as the length between the first and second longitudinally spaced boundaries of a retention portion in the form of target area 52. Everett teaches that the target area begins at an imaginary line that is 24% of the article length from the front waist edge and terminates at an imaginary line that is 59% of the article length away from the front waist edge. Thus the second length is $59-24=35\%$ of the first length which is the article length, which falls within the claimed range. Everett teaches that this is called a target area because it is positioned at appoint where it is believed that a majority of an insult of exudates will occur, thus it would be obvious to one of ordinary skill in the art to modify the article of Van Gompel such that the second length is less than or equal to 50% of the first length as taught by Everett to ensure that the absorbent material is placed where a majority of the flow of exudates from an insult will occur. ('214, Col. 8, lines 35-43)

With respect to **claim 13**: Van Gompel teaches that the retention portion is comprised of 37% superabsorbent material by weight. ('563, Col. 31, lines 9-11)

With respect to **Claim 14**: Van Gompel teaches that the body panels 52,53 of the chassis are comprised of a nonwoven material. ('563, Col. 17, lines 18-22)

With respect to **Claim 15**: Van Gompel teaches that the body panels 52,53 (chassis) comprise an elastomeric material that is stretchable along the lateral width 54 of the article. ('563, Col. 17, lines 42-45)

With respect to **claim 16**: Van Gompel teaches a pair of fasteners 36 positioned at one end of said body chassis on opposite sides thereof (Fig. 1), wherein said at least said pair of fasteners releasably engages an opposite end of said body chassis on said opposite sides thereof with a pair of leg openings being defined at least in part by said body chassis. ('563, Col. 5, lines 32-38)

With respect to **claim 17**: Van Gompel teaches a method of assembling a disposable absorbent garment 10 comprising: providing a body chassis (collectively panels 52,53) having a terminal front waist edge 60, a terminal back waist edge 61 longitudinally spaced from said terminal front waist edge, a first length defined between said terminal front waist edge and said terminal back waist edge, and a laterally extending centerline defined half way between said terminal front and back waist edge, wherein said body chassis is formed from a laminate structure having a plurality of layers, wherein all of said layers have the same length such that a thickness of said body chassis is the same along said length of said layers; and fixedly securing an absorbent insert 32 to said body chassis, wherein said absorbent insert 32 comprises a retention region comprising an absorbent material 48, said retention region having first and second longitudinally spaced boundaries and a second length defined between said first and second boundaries, and wherein there is no absorbent material disposed outside of said retention region defined

between said first and second boundaries. ('563, Col. 3, lines 62-67, Col. 5, lines 3,4, Col. 17, lines 42-48, Col. 19, lines 28-37)

Van Gompel does not explicitly teach that said second length is less than or equal to 50% of said first length. Everett teaches an absorbent article having a first length as defined in the instant application disclosure and a second length, defined according to the application disclosure as the length between the first and second longitudinally spaced boundaries of a retention portion in the form of target area 52. Everett teaches that the target area begins at an imaginary line that is 24% of the article length from the front waist edge and terminates at an imaginary line that is 59% of the article length away from the front waist edge. Thus the second length is $59-24=35\%$ of the first length which is the article length, which falls within the claimed range. Everett teaches that this is called a target area because it is positioned at a point where it is believed that a majority of an insult of exudates will occur, thus it would be obvious to one of ordinary skill in the art to modify the article of Van Gompel such that the second length is less than or equal to 50% of the first length as taught by Everett to ensure that the absorbent material is placed where a majority of the flow of exudates from an insult will occur. ('214, Col. 8, lines 35-43)

Van Gompel does not explicitly teach that at least 70% of said second length is positioned between said centerline and said terminal front waist edge. The second length taught by Everett begins at a boundary that is 24% of the length of the article away from the front waist edge, which is considered to be a point defining 0% of the length. The second boundary that defines the second length is 59% of the length away from the front waist edge. Thus, considering the lateral centerline to be 50% of the length of the article away from the front waist edge, a portion of the target area 52 that is located between the front waist edge and the centerline has a length that is equal to 50%-24%, or 26% of the length of the article. The total

second length is a length that is 35% of the article length. Therefore, the percentage of the second length that is positioned between the centerline and the front waist edge is 26% article length (=portion of second length forward of the centerline)/35% article length (=total second length), or 74% of the second length, which meets the relevant claim limitation. The motivation to combine the teachings of Van Gompel and Everett has been stated *supra* in this rejection of claim 17.

With respect to **Claim 18**: The absorbent assembly comprises single retention member 48 defining a retention region. As can be seen in Fig. 2, retention portion 48 has first and second ends corresponding to first and second boundaries. ('563, Col. 3, lines 55-60)

With respect to **claim 19**: Van Gompel teaches that the retention portion is comprised of 37% superabsorbent material by weight. ('563, Col. 31, lines 9-11)

With respect to **claim 20**: Van Gompel teaches a method of assembling a disposable absorbent garment comprising: providing a body chassis in the form of panels 58 and 60 having a terminal front waist edge 60, a terminal back waist edge 61 longitudinally spaced from said terminal front waist edge, a first length defined between said terminal front waist edge and said terminal back waist edge, and a laterally extending centerline defined half way between said terminal front and back waist edge; and fixedly securing an absorbent insert 32 to said body chassis, wherein said absorbent insert 32 comprising a retention region comprising an absorbent material 48, said retention region having first and second longitudinally spaced boundaries and a second length defined between said first and second boundaries, and wherein there is no absorbent material disposed outside of said retention region defined between said first and second boundaries;

wherein said body chassis comprises a front body panel 58 comprising said terminal front waist edge 60 and a terminal crotch edge longitudinally spaced from said terminal front waist edge, and a rear body panel 60 comprising said terminal back waist edge 61 and a terminal crotch edge longitudinally spaced from said terminal back waist edge, said terminal crotch edges of said front and rear body panels being longitudinally spaced to form a gap therebetween, and wherein said absorbent insert 32 comprises first and second longitudinally spaced end portions each having a terminal edge and opposite laterally spaced side edges, and wherein said fixedly securing said absorbent insert to said body chassis comprises bridging said gap between said front and rear body panels with absorbent insert 32 wherein said first and second end portions overlie said front and rear body panels respectively, and fixedly securing said first and second end portions to said front and rear body panels respectively with said terminal edges of said first and second end portions longitudinally spaced from said terminal waist edges of said front and rear body panels respectively and with said terminal edges of said first and second end portions longitudinally spaced from said terminal crotch edges of said front and rear body panels respectively. ('563, Col. 3, lines 62-67, Col. 5, lines 3,4, Col. 17, lines 42-48, Col. 19, lines 28-37)

Van Gompel does not explicitly teach that said second length is less than or equal to 50% of said first length. Everett teaches an absorbent article having a first length as defined in the instant application disclosure (i.e. the length of the article) and a second length, defined according to the application disclosure as the length between the first and second longitudinally spaced boundaries of a retention portion in the form of target area 52. Everett teaches that the target area begins at an imaginary line that is 24% of the article length from the front waist edge and terminates at an imaginary line that is 59% of the article length away from the front waist edge. Thus the second length is $59-24=35\%$ of the first length which is the article length, which

falls within the claimed range. Everett teaches that this is called a target area because it is positioned at a point where it is believed that a majority of an insult of exudates will occur, thus it would be obvious to one of ordinary skill in the art to modify the article of Van Gompel such that the second length is less than or equal to 50% of the first length as taught by Everett to ensure that the absorbent material is placed where a majority of the flow of exudates from an insult will occur. ('214, Col. 8, lines 35-43)

Van Gompel does not explicitly teach that at least 70% of said second length is positioned between said centerline and said terminal front waist edge. The second length taught by Everett begins at a boundary that is 24% of the length of the article away from the front waist edge, which is considered to be a point defining 0% of the length. The second boundary that defines the second length is 59% of the length away from the front waist edge. Thus, considering the lateral centerline to be 50% of the length of the article away from the front waist edge, a portion of the target area 52 that is located between the front waist edge and the centerline has a length that is equal to 50%-24%, or 26% of the length of the article. The total second length is a length that is 35% of the article length. Therefore, the percentage of the second length that is positioned between the centerline and the front waist edge is 26% article length (=portion of second length forward of the centerline)/35% article length (=total second length), or 74% of the second length, which meets the relevant claim limitation. The motivation to combine the teachings of Van Gompel and Everett has been stated *supra* in this rejection of claim 20.

With respect to **Claim 21**: Van Gompel teaches that the body panels 52,53 of the chassis are comprised of a nonwoven material. ('563, Col. 17, lines 18-22)

With respect to **Claim 22**: Van Gompel teaches that the body panels 52,53 (chassis) comprise an elastomeric material that is stretchable along the lateral width 54 of the article. ('563, Col. 17, lines 42-45)

With respect to **claim 23**: Van Gompel teaches a pair of fasteners 36 positioned at one end of said body chassis on opposite sides thereof (Fig. 1), wherein said at least said pair of fasteners releasably engages an opposite end of said body chassis on said opposite sides thereof with a pair of leg openings being defined at least in part by said body chassis. ('563, Col. 5, lines 32-38)

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MELANIE J. HAND whose telephone number is (571)272-6464. The examiner can normally be reached on Mon-Thurs 8:00-5:30, alternate Fridays 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on 571-272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Melanie J Hand/
Examiner, Art Unit 3761

/Tatyana Zalukaeva/
Supervisory Patent Examiner, Art Unit 3761